

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

SAINT-GOBAIN GLASS FRANCE,

Plaintiff,

y.

**AUTOMOTIVE COMPONENTS
HOLDINGS, LLC,**

Defendant.

Civ. A. No. 1:06-cv-00446-JJF

**AUTOMOTIVE COMPONENTS HOLDINGS, LLC's
OPENING BRIEF IN SUPPORT OF ITS MOTION TO
IMPLEAD SOLUTIA, INC. AS A THIRD-PARTY DEFENDANT**

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DATED: March 30, 2007

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I. STATEMENT OF FACTS

The underlying action is an action for patent infringement filed by Saint-Gobain Glass France (“Saint-Gobain”) against Automotive Components Holdings, LLC (“ACH”). ACH seeks to implead Solutia, Inc. (“Solutia”) as a third-party defendant because Solutia is ACH’s supplier of acoustic vinyl used in the alleged infringing glazings. If ACH is held to be liable for patent infringement, Solutia is contractually bound to indemnify ACH for its liability. Accordingly, Solutia is a necessary party to this action.

Saint-Gobain and ACH have been engaged in significant settlement discussions since the beginning of this case. However, the Scheduling Order deadline for moving to add parties is March 30, 2007. Accordingly, ACH is filing this motion.

II. ARGUMENT

A. Impleader Standard

Fed. R. Civ. P. 14(a) provides, in pertinent part:

(a) When Defendant May Bring in Third Party. At any time after commencement of the action a defending party, as third-party plaintiff, may cause a summons and complaint to be served upon a person not a party to the action who is or may be liable to the third-party plaintiff for all or part of the plaintiff's claim against the third-party plaintiff. The third-party plaintiff need not obtain leave to make the service if the third-party plaintiff files the third-party complaint not later than 10 days after serving the original answer. Otherwise the third-party plaintiff must obtain leave on motion upon notice to all parties to the action.

Joinder of third-party defendants under Rule 14 rests with the sound discretion of the trial court. *Remington Arms Co. v. Liberty Mutual Ins. Co.*, 748 F.Supp. 1057, 1068 (D.Del. 1990) (citations omitted).

B. The Joinder Of Solutia, Inc. Should Be Permitted In This Case

ACH is making a timely request to join Solutia as a third-party defendant in this case. Courts have considered many factors in determining whether to permit the joinder of third-party defendants including: (1) prejudice to the original plaintiff; (2) complication of issues at trial; (3) likelihood of trial delay; and (4) timeliness of the motion to implead. *Id.* These factors point toward granting this motion.

**1. Saint-Gobain Will Not Suffer Prejudice As
A Result Of The Joinder Of Solutia**

Saint-Gobain will not suffer prejudice as a result of the joinder of Solutia. The joinder of Solutia will help to adjudicate this matter more timely. Further, discovery has yet to begin between the parties so, to the extent Saint-Gobain requires discovery from Solutia, it will have the opportunity to do so. Finally, the joinder of Solutia will expedite resolution/settlement of Saint-Gobain's claims to the extent Solutia needs to have input.

2. The Joinder Of Solutia Will Not Complicate Issues At Trial

Joinder of Solutia as a third-party defendant in this suit will help reduce any complications that could arise in this suit. Given the terms of the Agreement between ACH and Solutia, Solutia must indemnify ACH from any finding of infringement by ACH in this suit. *U.S. v. New Castle County*, 111 F.R.D. 628, 636 (D.Del. 1986). It is best to join Solutia into this matter now so that discovery may be completed with all parties involved resolving all common legal issues. *Id.* at 636. If Solutia contests its potential liability, it is best raised here, in a single suit. *Id.* at 636.

3. The Joinder Of Solutia Is Not Likely To Delay The Trial

The joinder of Solutia is unlikely to delay the trial. This action is still at an early phase. Discovery has not yet been exchanged between the parties. Accordingly, Solutia is in the same position as ACH and Saint-Gobain and its addition would not require moving the calendar beyond any extensions needed by both Saint-Gobain and ACH, in the event settlement discussions fail.

4. ACH's Motion to Implead Solutia is Timely

ACH's motion is timely. ACH is seeking to implead Solutia before any substantive discovery by either side.

III. CONCLUSION

For the foregoing reasons, ACH asks this Court to grant its motion to implead Solutia as a third-party defendant in this case.

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DATED: March 30, 2007

CERTIFICATE OF SERVICE

I hereby certify that on March 30, 2007, I electronically served the foregoing document by using CM/ECF to counsel of record as follows:

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